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No. 02-1624

In The
Supreme Court of the United States

ELK GROVE UNIFIED SCHOOL DISTRICT, and
DAVID W. GORDON, Superintendent, EGUSD,

Petitioners,

v.

MICHAEL A. NEWDOW,

Respondent.

On Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

BRIEF FOR IDAHO GOVERNOR DIRK KEMPTHORNE, UNITED STATES SENATOR MIKE CRAPO, UNITED STATES REPRESENTATIVE MIKE SIMPSON, UNITED STATES REPRESENTATIVE C.L. "BUTCH" OTTER, PRESIDENT PRO TEMPORE OF THE IDAHO STATE SENATE ROBERT L. GEDDES, AND SPEAKER OF THE IDAHO HOUSE OF REPRESENTATIVES BRUCE NEWCOMB AS AMICI CURIAE IN SUPPORT OF PETITIONER ELK GROVE UNIFIED SCHOOL DISTRICT, *ET AL.*

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QUESTIONS PRESENTED

This is a First Amendment challenge to citizenship activity regularly practiced by children in public school classrooms throughout California, Idaho and the other States. A California statute affords students the opportunity to partake in "appropriate patriotic exercises," CAL. EDUC. CODE § 52720 (West 1989), and Elk Grove Unified School District Policy AR 6115 requires that each of its elementary school classes recite the Pledge of Allegiance to the Flag of the United States. The Pledge of Allegiance, as an act of Congress and as it is performed as a patriotic exercise in schools across the Nation, describes the United States as "one nation under God." 4 U.S.C. § 4 (1998). Specifically, Amici will address the following question:

> Whether a public school district policy that requires teachers to lead willing students in reciting the Pledge of Allegiance, which includes the words "under God," violates the Establishment Clause of the First Amendment, as applicable through the Fourteenth Amendment.

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Pursuant to Supreme Court Rule 37, Amici Curiae Governor Dirk Kempthorne, *et al.*, submit this brief in support of Petitioner Elk Grove Unified School District and David W. Gordon, having obtained the written consent of both Petitioners and Respondent. The letters of consent have been filed with the Clerk of this Court.[1]

IDENTITY OF AMICI CURIAE

Amici Curiae are Idaho's chief executive, the majority of the State's delegation to the United States Congress, and Idaho's State legislative leadership.

Amicus Dirk Kempthorne is the duly elected Governor of the State of Idaho and is a former United States Senator. As Idaho's Governor, he is empowered to "see that the laws are faithfully executed." IDAHO CONST. art. IV, § 5. Idaho has a statutory requirement that the State's schoolchildren learn and recite the Pledge of Allegiance to the flag of the United States as a part of its citizenship curriculum. Governor Kempthorne approved that legislation, House Bill 655, on April 17, 2000. H.B. 655, Leg. 2d. Sess., 2000 Idaho Sess. Laws 1449 (codified as IDAHO CODE § 33-1602 (Michie 2001)).

Amicus Mike Crapo serves the People of Idaho as a United States Senator. Prior to being elected to the United States Senate, he was a three-term member of the United

[1] Pursuant to Supreme Court Rule 37.6, Amici affirm that no counsel for any party in this case authored this brief in whole or in part and that furthermore, no person or entity has made a monetary contribution specifically for the preparation or submission of this brief.

States House of Representatives. Senator Crapo was elected to Congress after having served as the President Pro Tempore of the Idaho State Senate, a body of the legislative branch of Idaho government that begins each legislative day with a prayer. As with his other colleagues, Senator Crapo begins his legislative day on the floor of the United States Senate by reciting the Pledge of Allegiance to the flag of the United States.

Amicus United States Representative Mike Simpson is the former Speaker of the Idaho House of Representatives. He served fourteen years as a state legislator and was elected Speaker of the House for three sessions of the Idaho Legislature. As Speaker, he presided over the Idaho House of Representatives in a daily prayer prior to the start of each legislative day of business. In his present position, Congressman Simpson begins his legislative day on the floor of the United States House of Representatives by reciting the Pledge of Allegiance.

Amicus C.L. "Butch" Otter is also a member of the United States House of Representatives from the State of Idaho. Prior to being elected to Congress, Representative Otter served as the Lieutenant Governor of Idaho and performed the duties of acting Governor on numerous occasions. As Lieutenant Governor and President of the Senate for four, four-year terms, he presided over a daily prayer in the Idaho State Senate. As a member of the House of Representatives, he also begins his daily legislative business by performing the Pledge of Allegiance.

Amicus Robert L. Geddes is the President Pro Tempore of the Idaho State Senate. During Idaho's 2000 legislative session, he voted for and supported House Bill 655, legislation which provides for citizenship education

including the Pledge of Allegiance in Idaho's schools. President Pro Tempore Geddes also supported a change to Senate Rule 4 during the 2003 legislative session which adds the Pledge of Allegiance to the second order of business in the Idaho State Senate. Accordingly, the Pledge of Allegiance is now recited daily by members of the Idaho State Senate.

Amicus Bruce Newcomb is the Speaker of the Idaho House of Representatives, a position he has held for three terms. As the Speaker of the House of Representatives, Idaho's largest legislative body, Speaker Newcomb presides over the daily prayer by the House Chaplain at the start of the legislative day of business. Speaker Newcomb strongly supported and voted for House Bill 655, Idaho's citizenship education law, during the State Legislature's 2000 legislative session.

INTEREST OF AMICI CURIAE

Amici hail from the State of Idaho, a state which requires as a matter of its fundamental constitutional construct that no "preference be given by law to any religious denomination or mode of worship." IDAHO CONST. art. I, § 4. As elected officials of state and federal government, the laws are entrusted to the Amici for their deliberate construction and lawful execution.

The Pledge of Allegiance plays an integral part in citizenship education for children in Idaho public schools. Amici well understand that when Congress added the words "under God" to the Pledge it represented an important affirmation that the Framers of the Constitution did

not design the United States as a nation *void* of any acknowledgement of God in our public and free society.

Amici believe that citizenship education in Idaho has been meaningfully formulated to include the options of reciting the Pledge of Allegiance, the National Anthem, or the singing of "America the Beautiful," each of which includes a reference to God. By including such references, the State of Idaho does not advance a policy imposing politics, religion or endorsing an application of a specific religious faith.

Amici are vitally interested in maintaining the Pledge of Allegiance as an important part of the social and moral fabric of their State. They understand that Idaho implements citizenship education with particular sensitivity toward parents who, for whatever reason, have some objection toward the State's patriotism curriculum. Amici know that such accommodation is not necessarily calculated to avoid uncertainty under the Establishment Clause as much as it is to further a purposeful policy which respects the perspective of those who object to patriotism education.

Accordingly, the holding of the Ninth Circuit reviewed in this Court degrades an important observance of Idaho's heritage and culture as well as undermines current state law and policy. This result is particularly worrisome because it comes more than two centuries after the birth of a Republic in which its patriarchs freely referenced God in the many writings and organic documents which became the blueprint for the new Nation.

SUMMARY OF ARGUMENT

The State of Idaho provides mandatory citizenship and patriotism education in its public schools. By operation of state law, Idaho affords the opportunity for its students to recite the Pledge of Allegiance, sing the National Anthem or "America the Beautiful" in a public school setting. Additionally, Idaho's school districts are well experienced in accommodating the difference in perspectives by parents over the educational curriculum of their children.

The Pledge of Allegiance is not a prayer, and thus does not violate the Establishment Clause of the First Amendment. It is instead a patriotic exercise and thus distinguishable from actions triggering this Court's traditional jurisprudence assessing *prayer* in an educational setting.

ARGUMENT

THE PLEDGE OF ALLEGIANCE DOES NOT VIOLATE THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT

A. Background: Citizenship Education In Idaho Public Schools

Our Nation's Founding Fathers declared independence from Great Britain by proclaiming to be ever mindful of man's "equal station to which the Laws of Nature and of *Nature's God* entitle them," THE DECLARATION OF INDEPENDENCE (U.S. 1776) (emphasis added), and also professed that one of the self-evident truths is that such men "are endowed *by their Creator* with certain unalienable rights." *Id.*, at para. 2 (emphasis added).

The Preamble to the Constitution of the State of Idaho declares that "We, the people of the state of Idaho, *grateful to Almighty God* for our freedom, to secure its blessings and promote our common welfare do establish this Constitution." IDAHO CONST. pmbl. (emphasis added). As with the Nation's Founding Fathers, so too did the framers of the Idaho Constitution acknowledge that the process of constructing its essential governmental infrastructure required divine intercession in order to ensure its success.

The Elk Grove Unified School District policy reviewed in this case reflects similar educational values found in an Idaho statute which strongly encourages patriotism instruction in all of the State's elementary and secondary schools. Title 33, section 1602 of the Idaho Code provides in part that:

> (2) Instruction in the proper use, display and history of and respect for the American flag and the national colors *shall be given* in all elementary and secondary schools. Such instruction *shall* include the *pledge of allegiance to the flag*, the words and music of the national anthem, and of "America."
>
> . . .
>
> (4) Every public school *shall* offer the *pledge of allegiance* or the national anthem in grades one (1) through twelve (12) at the beginning of each school day.

IDAHO CODE § 33-1602(2), (4) (Michie 2001) (emphasis added). *See* App., at 1 (setting forth the complete statute).

However, mindful that the Idaho Constitution prohibits any marginalization of an individual's "right, privilege, or capacity on account of his religious opinions," IDAHO

CONST. art. I, § 4, the state law further provides that "No pupil shall be compelled, against the pupil's objections or those of the pupil's parent or guardian, to recite the pledge of allegiance or to sing the national anthem." IDAHO CODE § 33-1602(5) (Michie 2001).

Thus, even with Idaho's strong public policy that her young people be well-grounded and learned in the Nation's founding principles, that same policy provides an equally strong and appropriate philosophical accommodation to those parents who may object to having their children recite the Pledge of Allegiance or sing the National Anthem.

The practical impact of Idaho's current citizenship curriculum in elementary and secondary schools is that (if they or their parents so choose), young people throughout the State begin each day with some meaningful acknowledgment of the creation and protection of our Country.

In addition to perhaps reciting "one nation, under God" in the Pledge of Allegiance, some Idaho school children may fulfill their patriotic curriculum requirement under title 33, section 1602 of the Idaho Code by singing the words of the National Anthem,[2] or "America the

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[2] The Star Spangled Banner's third verse reads:

> Oh! thus be it ever, when freemen shall stand Between their loved homes and the war's desolation! Blest with victory and peace, may the heaven-rescued land Praise the Power that hath made and preserved us a nation. Then conquer we must, for our cause it is just, And this be our motto: "*In God is our trust*" And the star-spangled banner forever shall wave O'er the land of the free and the home of the brave!

Francis Scott Key, Star Spangled Banner (Sept. 20, 1814) (emphasis added).

Beautiful."[3] The holding of the court of appeals has effectively eviscerated each of the options expressly afforded in Idaho's classrooms to teachers and students for education in the heritage of the United States.[4]

As with the Petitioner, Idaho school districts also establish policy implementing citizenship educational practices, as exemplified by the following pronouncement from the Caldwell, Idaho School District No. 101:

> The Caldwell school's organizational values are a set of deeply held beliefs about our schools, that direct and guide decisions, behavior, and practices regarding students, parents, patrons, and staff.
>
> . . .
>
> 5. We believe that our educational program should reflect commonly held values of our community and that *patriotism, responsible citizenship, self-discipline, respect for authority, and an understanding of our heritage be emphasized in all aspects of the school district operation.*
>
> . . .

[3] The first chorus to "America" is sung, "America! America! *God shed His grace on thee.*" The second chorus is sung, "America! America! *God mend thine every flaw.*" The third chorus is: "America! America! *May God thy gold refine.*" The fourth and final chorus is identical to the first. Katherine Lee Bates, America the Beautiful (1913) (emphasis added).

[4] One irony of the decision by the court of appeals is that Idaho school children could now be forced to seek refuge in *religious* schools to recite the Pledge of Allegiance enacted by Congress and thus oblige the State's citizenship curriculum under section 1602.

> 10. We believe that our children are the treasures of today and the hopes for tomorrow, therefore, all decisions will be guided by "what is best for students?"

CALDWELL SCH. DIST., IDAHO DIST. POLICY NO. 101 (2003) (Rev. March 10, 2003 (emphasis added)). A sampling of Idaho school district policies addressing accommodation of certain ideological perspectives, including citizenship, may be found in the Appendix, App. at 2-6. In applying similar policy as the Petitioner here, the experience of Idaho schools in balancing the educational interests claimed to trigger Establishment Clause concerns in this case is instructive.

B. The Pledge of Allegiance is a Patriotic Exercise and Not a Prayer

The separation of church and state called for under the Establishment Clause of the First Amendment does not require the "separation of state from state." *Sherman v. Cmty. Consol. Sch. Dist.*, 980 F.2d 437, 444 (7th Cir. 1992), *cert. denied*, 508 U.S. 950 (1993). The Pledge of Allegiance, even if recited by school-age children with the phrase "one nation under God," is a patriotic exercise distinguishable from activity normally activating this Court's exacting constitutional scrutiny of *prayer* in an educational setting.

The Pledge of Allegiance, linked to recognition of the American Flag, is a part our national consciousness that is appropriately fostered in an educational context.[5] As a part

[5] "Patriotism is an effort by the state to promote its own survival, and along the way to teach those virtues that *justify* its survival. Public

(Continued on following page)

of a long-standing heritage of patriotism, the Pledge is a brief, civil observance contemplated to inspire patriotism and respect for American ideals. "Government may create national symbols, promote them, and encourage their respectful treatment." *United States v. Eichman*, 496 U.S. 310, 318. (1990). This Court has stated:

> We live by symbols. The flag is the symbol of our national unity, transcending all internal differences, however large, within the framework of the Constitution. This Court has had occasion to say that the flag is the symbol of the nation's power, the emblem of freedom in its truest, best sense it signifies government resting on the consent of the governed; liberty regulated by law; the protection of the weak against the strong; security against the exercise of arbitrary power; and absolute safety for free institutions against foreign aggression.

Minersville Sch. Dist. v. Gobitis, 310 U.S. 586, 596 (1940) (quoting *Halter v. Nebraska*, 205 U.S. 34, 43 (1907)). Although *Gobitis* was later overruled by *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943) on the issue of compulsory pledge recitation, its discussion of citizenship ideals remains valid.

The Ninth Circuit incorrectly determined that the Pledge of Allegiance violated the Establishment Clause because the primary motivation of the addition of the words "under God" by Congress was to advance religion. *Newdow*, 328 F.3d at 488. In a similar factual context as is

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schools help to transmit those virtues and values." *Sherman*, 980 F.2d at 444.

presented here, lower federal courts have applied the test articulated in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), to determine whether the Pledge of Allegiance violates the Establishment Clause. *See, e.g., Sherman v. Cmty. Consol. Sch. Dist.*, 980 F.2d 437 (7th Cir. 1992); *Myers v. Loudoun County Sch. Bd.*, 251 F.Supp.2d 1262 (E.D. Va. 2003). These courts, however, found that the Pledge "does not advance religion, and does not entangle the government in religion." *Sherman*, 980 F.2d at 440; *Myers*, 251 F.Supp.2d at 1269 (observing that Virginia's Pledge statute "has a secular purpose namely, to fostering and inspiration of (1) patriotism, (2) love of country and (3) respect for constitutional principles.")

Neither the words themselves nor the act itself of reciting the Pledge of Allegiance resemble the overt religious activities of this Court's school prayer cases.[6] *See Marsh v. Chambers*, 463 U.S. 783, 818 (1983) (Brennan, J., dissenting) ("mottos" such as "In God We Trust" and "One

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[6] Refusal by religious groups to participate in the Pledge of Allegiance, because of a belief that it elevates secular symbols and ideals above God, is evidence through a religious context, of the secular nature of the pledge and refutes notions that it is a religious exercise. For example, the Jehovah's Witnesses and Anabaptist Mennonites are among some religious organizations in America whose members will not recite the Pledge of Allegiance because they believe that such a gesture of respect for the Flag is forbidden by the Bible. *See Minersville Sch. Dist. v. Gobitis*, 310 U.S. 586, 592 (1940); *Myers v. Loudoun County Sch. Bd.*, 251 F.Supp.2d 1262 (E.D. Va. 2003). Their belief is based on "the following verses from Chapter 20 of Exodus: 3. Thou shalt have no other gods before me; 4. Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; 5. Thou shalt not bow down thyself to them, nor serve them. . ." *See Minersville Sch. Dist.*, 310 U.S. at 592, fn 1.

Nation Under God" are "consistent with the Establishment Clause, not because their import is *de minimus,* but because they have lost any true religious significance"). In *School District of Abington v. Schempp*, 374 U.S. 203 (1963), Justice Brennan opined:

> [W]e have simply interwoven the motto [In God We Trust] so deeply into the fabric of our civil polity that its present use may well not present that type of involvement which the First Amendment prohibits.
>
> This general principle might also serve to insulate the various patriotic exercise and activities used in the public schools and elsewhere, whatever may have been their origins, no longer have a religious purpose or meaning. The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the historical fact that our nation was believed to have been founded 'under God.'

Schempp, 374 U.S. at 303-04 (Brennan, J., concurring).

That the phrase "under God" is of less religious significance is further illustrated by Justice Brennan's dissenting opinion in *Lynch v. Donnelly*, 465 U.S. 668 (1984). There, he noted that the Pledge escapes scrutiny under the Establishment Clause because it has "lost through rote repetition any significant religious content." *Lynch*, 465 U.S. at 716 (Brennan, J., dissenting).

In a stark contrast to the recitation of the Pledge encouraged by Petitioner's policy, the key characteristic action engendering scrutiny by this court under the Establishment Clause is an overt and conspicuous religious event. *See, e.g., Lee v. Weisman*, 505 U.S. 577 (1992) (inviting *clergy* to offer *prayers* as part of a public school

graduation ceremony violates the Establishment Clause); *Sch. Dist. of Abington v. Schempp*, 374 U.S. 203 (1963) (beginning each day of public instruction with a reading from the *Bible* or recitation of the *Lord's Prayer*); and *Engel v. Vitale*, 370 U.S. 421 (1962) (acting in its official capacity, Board of Education violated the Establishment Clause when it directed school district principals to have a *prayer* said aloud by students in class).

"It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise . . ." *Lee*, 505 U.S. at 587. This Court has subjected the cases of *Lee, Schempp,* and *Engel* to Establishment Clause scrutiny because of the particular risk of indirect or subtle coercion that can accompany religious activities or prayer in public schools in violation of the Establishment Clause.

Lee's coercion test, however, is an inappropriate standard to apply to the act of simply reciting the Pledge of Allegiance. The Pledge is neither a *religious* exercise nor prayer and thus cannot coerce anyone's support or participation in religion because it is inapposite to a "solemn avowal of divine faith and supplication for the blessings of the Almighty," *Engel*, 370 U.S. at 424. *Cf. Lee*, 505 U.S. at 577 (performance of invocation for high school graduation violated Establishment Clause).[7]

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[7] In *Lee*, Rabbi Gutterman's invocation was:

> God of the Free, Hope of the Brave: For the legacy of America where diversity is celebrated and the rights of minorities are protected, we thank You. May these young men and women grow up to enrich it.

(Continued on following page)

A broader standard has been articulated to prevent coercion prior to *Lee* which would be more applicable to the case at bar. In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), this Court stated that "no official, high or petty can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." After *Barnette, compulsory* recitation of the Pledge of Allegiance was deemed unconstitutional, and the Court's rationale in that case remains valid in its application to the instant matter.[8]

The act of reciting the Pledge of Allegiance in any school classroom is best not viewed through the lens of mandatory religion or politics. Instead, as a matter of practice and lawful policy, the Pledge is properly measured as a single but important component of an educational process sustained by an exacting yet delicate combination

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> For the liberty of America, we thank You. May these new graduates grow up to guard it.
>
> For the political process of America in which all citizens may participate, for its court system where all may seek justice we thank You. May those we honor this morning always turn to it in trust.
>
> For the destiny of America we thank You. May the graduates of Nathan Bishop Middle School so live that they might help to share it.
>
> May our aspirations for our county and for these young people, who are our hope for the future, be richly fulfilled.
>
> AMEN.

Lee, 505 U.S. at 581-82.

[8] Under Idaho law reciting the Pledge of Allegiance is completely voluntary. *See* IDAHO CODE §33-1602(5) (Michie 2001).

of patriotism and tolerance that originally inspired the Establishment Clause.

CONCLUSION

For the reasons set forth above, the Court should reverse the decision of the United States Court of Appeals for the Ninth Circuit in favor of Petitioner Elk Grove Unified School District, *et al.*

Respectfully submitted,

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APPENDIX

Idaho Code Section 33-1602

33-1602. UNITED STATES CONSTITUTION – NATIONAL FLAG AND COLORS NATIONAL ANTHEM "AMERICA" CITIZENSHIP.

(1) Instruction in the Constitution of the United States shall be given in all elementary and secondary schools. The state board of education shall adopt such materials as may be deemed necessary for said purpose, and shall also determine the grades in which such instruction shall be given.

(2) Instruction in the proper use, display and history of and respect for the American flag and the national colors shall be given in all elementary and secondary schools. Such instruction shall include the pledge of allegiance to the flag, the words and music of the national anthem, and of "America."

(3) Every school board of trustees shall cause the United States flag to be displayed in every classroom during the school hours of each school day.

(4) Every public school shall offer the pledge of allegiance or the national anthem in grades one (1) through twelve (12) at the beginning of each school day.

(5) No pupil shall be compelled, against the pupil's objections or those of the pupil's parent or guardian, to recite the pledge of allegiance or to sing the national anthem.

> [(6)](3) Instruction in citizenship shall be given in all elementary and secondary schools. Citizenship instruction shall include lessons on the role of a citizen in a constitutional republic, how laws are made, how officials are elected, and the importance of voting and of participating in government. Such instruction shall also include the importance of respecting and obeying statutes which are validly and lawfully enacted by the Idaho legislature and the congress of the United States.

IDAHO CODE § 33-1602 (Michie 2001) (emphasis added).

Boise City, Idaho Independent School District

Policy No. 2190
Freedom of Belief

> The District shall respect the right of each individual to follow his/her own beliefs, as long as the beliefs do not infringe upon the rights of others or disrupt the educational process. Information about various religions may be made available to students as appropriate to the students' grade level and course of study. Any discussion or study of religion or other beliefs shall be offered in a fair and objective manner, consistent with learning objectives and *free from sectarian influence.*

INDEPENDENT SCHOOL DISTRICT OF BOISE CITY, POLICIES AND ADMINISTRATIVE PROCEDURES NUMBER 2190 (Rev. Aug., 2003) (emphasis added).

Jefferson County, Idaho School District No. 251

700.0 EQUAL EDUCATIONAL OPPORTUNITIES

700.1 – Statement of Guiding Principles

> The Board of Trustees of School District # 251 affirms its belief that there shall be no discrimination against students on the basis of race, gender, color, national origin, religion, *creed*, marital status or disability in the educational programs and activities of this School District. The District will not discriminate against any student on the basis on sexual orientation. *Idaho Code Section 16-1619*
>
> The Board intends to protect the rights of each student and promote the welfare of all students simultaneously. Policies in this series are enacted to aid in providing quality experiences for students in all activities related to the educational program. It is the purpose of the Board to provide opportunities for all students to become useful and *productive citizens*.

JEFFERSON SCH. DIST., EQUAL EDUCATION OPPORTUNITIES (2003) (emphasis added).

Kuna, Idaho Joint School District No 3

MISSION STATEMENT

> The Kuna School District is committed to teach each student to become a lifelong learner and a contributing, responsible *citizen*.

DISTRICT GOALS

- Students and staff will be able to learn and work in an environment that is caring, orderly, purposeful, conducive to teaching, and

where both students and staff are free from threat of physical or emotional harm.

KUNA SCH. DIST., MISSION STATEMENT AND DISTRICT GOALS (2003) (emphasis added).

Lewiston, Idaho Independent School District No. 1

5020. Discipline Code, Student

4. General Policy

It shall be the policy and goal of the District to encourage appropriate student conduct that will promote good health, reasonable standards of behavior, *effective citizenship*, and a positive atmosphere for learning. Students on school grounds or in places under school jurisdiction will abide by the rules which are established by that school to achieve these objectives.

Admission to the schools of the District carries with it the presumption that the student will conduct himself/herself as a responsible member of the school community. This includes the expectation that the student will obey the law, adhere to the policies of the District, and comply with Rules and Regulations implementing these policies. In addition, the student will safeguard the property of the school and will respect the rights and privileges of others in the school community.

Each student will accept responsibility for his/her conduct. In order to accomplish the educational purposes of this District in an effective school environment, the Board has approved a set of rules covering students' rights and responsibilities. When violations of these rules occur, the school is authorized to take appropriate action designed to ensure more responsible behavior on the

part of the student. When violations of the laws of the United States, the State of Idaho, and/or its subdivisions are also involved, the school may also refer such matters to parents, legal guardians, or appropriate civil authorities.

5. Student Rights

A. Student Expression

Freedom of student expression is an inherent constitutional right and is provided for in the school program. The right of free speech does not include the right to disrupt or violate the educational process. Freedom of student expression applies also to the students' dress and appearance, provided that they do not cause disruption to the educational process or present health or safety problems. When such disruption or violation occurs, as determined by the teacher and/or building principal, the student shall be subject to disciplinary action. Orderly procedures for student expression include the following:

1. Students are entitled to present their personal opinions insofar as these expressions do not disrupt the educational process.

LEWISTON SCH. DIST. STUDENT DISCIPLINE CODE (2003).

Wilder, Idaho School District No. 133

THE WILDER SCHOOL DISTRICT MISSION

The Mission of the Wilder School District No. 133 is to teach each student to acquire the knowledge, skills, and attitudes necessary for being a responsible, ethical, and contributing *member of our changing society.*

BELIEFS ABOUT WHAT OUR STUDENTS SHOULD LEARN:

. . .

4. Wilder students must acquire the ability to form satisfying and responsible relationships with a wide range of other people, including but not limited to those with social and cultural characteristics different from their own. They must learn to demonstrate respect for the rights of others and their property.

. . .

7. Wilder students must learn to become effective and *responsible contributors to the decision making process of the political and other institutions of the school, community, state, country and world.*

. . .

28. Students and staff have a right to a safe and orderly learning environment.

WILDER SCH. DIST., MISSION STATEMENT (2003) (emphasis added).